IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No. 384 of 2006.

Decided on : September 6, 2006.

Tej Singh & ors. **…..Appellants.**

VERSUS

Smt. Saroja Devi and ors. **…..Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?[1]

For the Appellants : Mr. G.R.Palsra, Advocate.

For the Respondents :

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. A suit was filed against the appellants by the respondents, seeking grant of permanent prohibitory injunction, restraining them from interfering in their possession over certain cultivated land, as also abadi land. Abadi land was stated to be comprised in khasra Nos. 28, 29 and 30. Besides seeking relief of permanent prohibitory injunction, prayer was made for issuance of mandatory injunction directing the appellants for demolition of certain structure allegedly raised by them unauthorisedly.

3. Appellants contested the suit and as regards the abadi land, they took the plea that abadi area, comprised in khasra No. 28, measuring 14 Biswas belonged to one Maltu Devi, who sold the same

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Whether the reporters of the local papers may be allowed to see the Judgment?

to one of the appellants, namey Naresh Kumar together with the house standing thereon. Parties went to trial, at the end whereof, the trial court granted permanent prohibitory injunction in favour of the appellants, thereby restraining the respondents from causing any interference in the subject matter of the suit.

4. Appellants filed an appeal in the court of District Judge. The District Judge, has modified the decree and restricted the decree of permanent prohibitory injunction to a part of the suit property, i.e. land, comprised in khasra No. 37, and abadi comprised in khasra No. 28.

5. Appellants are still aggrieved. According to them, abadi land comprised in khasra No. 28 belongs to one of them, namely Naresh Kumar, as it had been sold to him by Maltu Devi. I have heard the learned counsel. I have also gone through the agreement allegedly executed by Maltu Devi, copy of which has been shown to me, as also the statements of the witnesses, copies of which are available with the learned counsel. The alleged agreement had not been proved. Only its photostat copy was produced, which was not exhibited by the Court. In any case, the description of the house purportedly sold by Maltu Devi through this agreement is not given therein. Further the recitals of this writing are contrary to the testimony of Naresh Kumar, who appeared as DW 1. As per recital of this writing, the house sold thereby consisted of six rooms, but Naresh Kumar, in his testimony as DW 1 has said that the house that belonged to Maltu Devi comprised of two rooms and a kitchen. This

contradiction shows that the house which Naresh Kumar allegedly purchased from Maltu Devi was different from the suit property.

6. For the foregoing reasons, I find no merit in the case. In any case, no substantial question of law arises. Hence the appeal is dismissed.

CMP No. 732 of 2006.

7. Infructuous.

September 6, 2006. **(Surjit Singh)**
(Hem) **Judge.**